

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 02-27-04.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the dates of service in dispute. The Commission received the medical dispute resolution request on 2/27/04, therefore the following date of service is not timely: 2/11/03.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The following services and dates of service **were found** to be medically necessary:

- CPT code 99211: office visits on 6/10/03, 7/11/03, and 8/1/03
- CPT code 97014: electrical stimulation on 6/10/03 and 6/23/03.
- CPT code 97010: hot/cold packs therapy on 6/10/03 and 6/23/03.
- CPT code 97250: myofascial release on 6/12/03 and 6/20/03.
- CPT code 97124: massage therapy on 6/12/03 and 6/20/03.
- CPT code 97110: therapeutic exercises on 6/23/03, 6/26/03, 7/1/03, 7/2/03, 7/7/03, 7/9/03, 7/10/03, and 7/14/03.

With the exception of the services outlined above, the following services and dates of service **were not found** to be medically necessary: office visits (levels I-IV, with and without manipulation; EMS, hot/cold packs therapy, miscellaneous supplies, prolonged evaluation, physician conference, unlisted modality, traction, joint mobilization, massage, myofascial release, muscle testing, range of motion measurements, therapeutic exercises, neuromuscular re-education, manual therapy, chiropractic manipulative treatments, therapeutic activities, and group activities rendered from 3/31/03 through 9/03/03.

The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On May 19, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

CPT code 99080-73 for dates of service 3/10/03, 4/7/03, 5/6/03, 6/16/03, 7/8/03: The carrier denied CPT Code 99080-73 with a V for unnecessary medical treatment based on a peer review, and no EOBs was submitted for date of service 7/8/03. The TWCC-73 is a required report and is not subject to an IRO review in accordance with Rule 129.5. Review of the reconsideration HCFA and certified mail receipt reflected proof of billing in accordance with Rule 133.308 (f)(3). The Medical Review Division has jurisdiction in this and therefore **reimbursement is recommended in the amount of \$75.**

CPT code 99358 for date of service 7/9/03-review of the requester's and respondent's documentation revealed that neither party submitted copies of EOBs, however, review of the reconsideration HCFA and certified mail receipt reflected proof of billing in accordance with Rule 133.308 (f)(3). Therefore, the disputed service will be reviewed according to the 1996 MFG. The requestor billed \$30 for this service. Therefore, **reimbursement is recommended in the amount of \$30.**

CPT code 99361 for date of service 3/5/03 was denied by the carrier with "G", unbundling. Carrier didn't specific which service this was global to, therefore it will be reviewed according to the 96 MFG. **Reimbursement is recommended in the amount of \$53.**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees as follows:

- in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- in accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Order is applicable to dates of service 3/05/03 through 8/01/03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 1st day of November 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

**NOTICE OF INDEPENDENT REVIEW DECISION
SECOND AMENDED DECISION**

Date: October 14, 2004

MDR Tracking #: M5-04-1928-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic physician reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

According to the supplied documentation, it appears that the claimant injured his shoulder and back while lifting a trash can at work on ___. The claimant was seen at the ER and later by the company doctor who prescribed medications. On 11/27/2001, the claimant was seen at ___. The claimant had plain film x-rays taken on the same day that revealed degenerative changes in the cervical spine. The claimant had x-rays taken on his lumbar spine, which were essentially unremarkable. A MRI was performed on 12/06/2001 that revealed a partial bursal surface tear of the supraspinatus tendon with mild joint effusion. On 04/03/2002, ___ performed an impairment rating and gave the claimant a whole person impairment of 9%. (___ later reverses his MMI assessment to wait for a surgical consult) A NCV/EMG test was performed on 05/15/2002 which revealed a possible bilateral median nerve entrapment. A MRI was performed on 07/17/2002 that revealed a C4-5 2-3 mm protrusion, a C5-6 1-2 mm bulge and an annular bulge at C6-7. Arthroscopy was performed by ___ on 08/28/2002. Another NCV was performed on 12/06/2002 suggesting a median nerve abnormality. The claimant underwent a second surgery to his shoulder with ___. On 05/08/2003, cervical surgery was performed by ___.

Requested Service(s)

Please review and address the medical necessity of the outpatient services including office visits level I, III, III w/ manipulation and IV, EMS, hot/cold therapy, misc supplies, prolonged evaluation, physician conference, unlisted modality, traction, joint mobilization, massage, myofascial release, muscle testing, ROM measurements, therapeutic exercises, neuromuscular reeducation, manual therapy, CMT, therapeutic activity and group activity rendered between 03/31/2003 and 09/03/2003.

Note: There was one other service dated 02/11/2003, which was marked untimely. Regardless of whether it was or was not timely it was not considered medically necessary.

Decision

I agree with the treating doctor that the services rendered on the following dates and following codes were medically necessary:

06/10/2003: 99211, 97014, 97010
06/12/2003: 97250, 97124
06/20/2003: 97250, 97124
06/23/2003: 97110, 97010, 97014
06/26/2003: 97110
07/01/2003: 97110
07/02/2003: 97110
07/07/2003: 97110
07/09/2003: 97110
07/10/2003: 97110
07/11/2003: 99211
07/14/2003: 97110
08/01/2003: 99211

I agree with the insurance company that the remainder of services in question were not medically necessary.

Rationale/Basis for Decision

The documentation supported a compensable injury to the claimant's left shoulder and cervical spine. The claimant was treated with chiropractic therapy, which failed. The claimant later underwent two separate surgeries to his left shoulder and then a procedure to his cervical spine. Following a release from his operating physicians, an appropriate rehabilitation program would be necessary to help reduce the claimant's pain and restore his ROM. The documentation dated 06/09/2003 by ____ reported that he should begin therapy. ____ reported on 06/17/2003 that he should begin his therapy as well. Since conservative therapy had failed and the surgical intervention was necessary, the therapy rendered between 03/31/2003 – 06/04/2003 was not seen as medically necessary. This type of passive therapy was not recommended by either surgeon and had failed in the past, making ongoing passive therapy unreasonable. After ____ released the claimant back to therapy on 06/09/2003 the therapy would have been reasonable for the first 2 weeks (until 06/25/2003) with a transition to active therapy. Passive therapy beyond the initial 2-week period is not seen as reasonable or medically necessary. Active therapy would have been reasonable for an additional 4 weeks (until 07/23/2003) with a transition to a home based protocol where the claimant could continue to rehabilitate his shoulder and cervical spine at home with theraband and exercises designed by his treating doctor to facilitate his healing process without the need of direct supervision. The passive therapy that continued prior to the release to therapy and after the initial 2 weeks is not objectively documented as reasonable in the treatment of the claimant. The therapy rendered after the 07/23/2003 should be limited to a home-based exercise program and monthly office visits to monitor his condition.